

EAST PALESTINE VILLAGE COUNCIL - REGULAR- APRIL 23, 2012 7P.M.

Mayor Margo Zuch called the meeting to order. Present were Wisser, Elzer, Figley, Tyger, Rauch, & Hull. Minutes of April 9, 2012 were approved on a motion from Rauch, seconded by Tyger, carried.

AGENDA: Dr. Venus Wittenauer spoke on the matter of demolition in reference to a property she owns at 40 S. Walnut St. She asked is it possible to close the street on Saturdays and Sundays for 2 to 3 weeks until demo is complete. Rauch made a motion to block the street for Dr. Wittenauer on the weekends, seconded by Elzer. Motion carried unanimously. Mayor Zuch asked that Thompson notify the street dept to drop off barricades to that location for Dr. Wittenauer. There was no clerks report.

MAYOR ZUCH reminded the audience of Dog days on May 12. She also noted that the 24th District of the Masons honored one of our residents, Ms. Barb Lynch with a plaque for community service to the Village along with all of her years as a teacher. Mayor Zuch thanks Ms. Lynch for all of her years of service to the community. Mayor Zuch also wanted everyone to know how hard and how well Interim Manager Thompson and Interim Clerk Martin are working to learn the new jobs and that we are making strides and we find new things everyday and thanked them.

INTERIM MANAGER TRACI THOMPSON first gave the floor to Tim Weigle on behalf of the Township Trustees to update everyone on the N. Market St. sewer extension project. Mr. Weigle spoke with Howells and Baird and commissioners have received 3 bids for sewer extension that will go from the Village limits to approx Wilderson Ave. (approx 400ft). The Commisioners will award the bid on Wed 25. The low bid was Dave Sugar @ \$124,658.50. The other 2 bids were JCM Contracting, and LEB and both were above the 10% estimate. This is for 2 phases, first phase was two years ago, and now the second phase and by combining them it was a little cheaper. The extension will probably happen within the next couple months. Figley asked if there was any progress made as far as going further up Market and Weigle stated that if any new residents get orders to repair septic tanks that the Trustees would be willing to look at continuing on further. Thompson asked if both phases would be done at the same time and Weigle said yes. Thompson stated she has been working to update herself with all of the ongoing projects. She has been working with OMEGA on the Britains project so it doesn't fall thru. Deadline to file for some of the grant money is May 21. This project needs discussed in more detail at the next meeting on May 14. She stated she has met with Pam Ewing from RCAP in reference to Moore lane and reservoir project. She has been in touch with Diorio on the E. Main paving project with some change orders. Paving on Brookdale also has change orders to extend the curb and gutter 190 ft. to Sunset. The catch basin has already been installed. Thompson stated that Jurjavcic has been in touch with ODOT and that the preliminary work should start by May 14. The contractors on the N. Market St. project have been put on notice that they are past the deadline. Figley stated that he had spoke to the contractor and was told all of the seeding was done and all he had left to do was pick up plates and etc. They were in the process of scheduling a walk thru with the inspector. Thompson stated that she needed to send a letter to ODOT to cancel the bridge project. Figley stated he is going to meet with the County Engineer on the load rating of the bridge. Tyger asked if we had any idea on that, and had they done the study yet. Figley said they have not. Figley said there were 3 possible proposals, one is free, the other is \$1100.00 and at one point we had set back \$4000 for load rating. Council agreed that the replacement of Park Dr. bridge is cancelled and for Thompson to go ahead and send the letter to ODOT stating so. Figley said that it is state mandated for any bridge over a 40ft span and that one is. Thompson stated that the adds for City Manager have been placed on the Ohio Municipal League website, Monster.com and various universities. Elzer stated that we have received one response already and asked if all applications will be held until May 14, which is the next council meeting after the deadline for applications, which is May 11. Thompson said yes. On Thur the 25, Thompson stated she and Wisser are going to a Sunshine Law meeting in Canton. Thompson asked council if they wanted her to be there representative at the meeting and they said yes.

LAW DIRECTOR Shirley Smith stated she has updated the oil and gas companies on the interim City Manager so we should have a final lease agreement next week from both of them and hasn't had any comments from any of council on the addendum clauses from before and if there are comments please get them to her because they are finalizing the documents. In reference to what will be 7-2012 resolution regarding Wheathill Reservoir, it indicates there is an exhibit A attached which is the letter from MS and it wasn't in her packet and she brought extras if anyone else needed them. Figley asked if there was a price in the addendum and Smith said there was not. Figley asked if there was a final price and Smith stated there are prices but until you get thru the final addendum they will not be stated. Figley asked if the addendum is where the money is going and Smith said no that is the legislation and the apportionment. She stated the addendum is basically clauses that are added to the lease agreement for protection of water, notification of declaration units, our unitization size, what the royalties will be, and the terms of the lease. Elzer asked if any of the clauses would reduce the value of the contract, Smith stated she didn't think so assuming the

monies are equal in the up front part, the only one that would affect it is the unitization clause because it says it says how many acres can be in designated unit and the royalties are a function of how many acres you would have in that unit, so we try to keep it a smaller unit. We try to keep the units smaller, around 640 acres per unit. Some of them are out there at \$1280.00 some are unlimited. The bigger the unit, some of the royalties begin to liquidate because you have a higher hold the smaller the unit based on your percentage of acreage within that unit. That is the only clause that would affect price, the rest are more protections that are especially important because its Park and Cemetery land. Elzer asked when Smith is negotiating how does she value the bonus money versus the lease, how does she weight them? Smith stated she normally weights them on a case-by-case basis because for some owners the land is more important to them and also it depends on the amount of acreage they have. If you have a 2-acre parcel with a house, there is a limitation on how close they can drill to wells, septic, a dwelling so the chances of them getting a drilling rig are unlikely. We are similar to farmers because we have a lot of open land that is used for alternative uses such as the park, which has people in it. We want it to be safe and clean. Elzer said what he wanted to know was if someone offers you a certain amount for the bonus and a different percentage on the royalties how do weight the royalty number vs. the bonus number up front? Smith stated she does her own research, looks at Dept. of Natural Resources, checks permits. Based on the locality of the property you can get a better feel as to if there is potential for a drilling operation. Elzer asked where the Park stands. Smith said you have some property on Carbon Hill Rd that is attractive to them. Elzer asked if the royalties are worth more than the bonus. It depends on if the actually drill. Figley asked for a description of the bonus. Smith stated that the bonus is a one-time fee; it's called a "paid up oil and gas lease". Figley asked if that's what everyone around here had. Smith said yes, for the most part. Some people have a designated unit within the area. It's an amount that's paid based on your acreage, but its paid up front over the course of the 5 years. What you get in that bonus represents 5 years of annual payments but instead of annual payments, they pay you everything up front. Figley states that is not the way it is around here. They get a lump sum price for their acreage. Smith says yes, per acre. Figley asks what do you mean for 5 years. Smith states that is the term of the lease, it's all paid up front. Some people get annual payments. Elzer then asked if you would not get royalties the first 5 years then. Smith says they are separate. Smith said you get the sign up bonus but you may never get royalties. If they never drill, you wont get royalties. If they drill, an estimate could be a year from that time that you would start receiving royalties, but it could be any time during the term of the lease. Elzer said then there is no way of knowing if the royalties would be more or less than the bonus. Smith said that is correct. Mayor Zuch asked if we have a no drill clause to protect the park and cemetery. Smith said it's a no surface clause, which means they can only drill under and no operations would be on the surface. Elzer asked if we lose anything because of that clause. Smith said yes because the only way you are of value to them is if you are contiguous property.

STREET: Figley said Thompson covered it. They were supposed to begin paving today but because of weather, held off. Street crew will put a load of hot patch down this week. Mayor Zuch asked if E. Main still needed a topcoat and Figley said yes.

SAFETY/PARK/RECREATION/CEMETERY: Rauch talked to Chief Monteleone about parking situation at the park in reference to parking on the inside of the oval. There are signs up and last year a child got hit running between the cars. Please come and enjoy the park but obey the signs, as the PD will be enforcing them. Signs are being purchased by the Park Board and will say something to the effect of "no one permitted without being accompanied by a child" but cannot remember the exact wording. The idea is if you're not with a child, you should not be in there if you are over a certain age. Park board asked about adding "no smoking" to the signs and Rauch said it was up to them but it should be no smoking anyway because its all wood. Rauch also reminded everyone of Dog Days. There will be tons of mulch going down in Rainbow Dreamland so if you are looking to help, the park can use your help. The Village received a Nature Works grant to replace all of the electrical service in the pool area and its now up to code, and the slide was repaired. Everything looks good and is on track. Rauch stated he stopped in the office that everyone in the office is doing a good job and things are going good. They have picked up where things left off and are carrying on. Rauch wanted to clarify a misprint in the newspaper. He stated that Thompson **DID NOT** apply for the City Managers position, she was appointed by council. Mayor Zuch stated there was a correction in the paper. And Rauch stated that everyone is doing a good job.

DEVELOPMENT: Elzer stated everything he had has already been covered.

UTILITY: Wisser had no report but did want to add that the PITCH HIT AND RUN COMPETITION is this Sunday at 2 p.m. at the park. Figley added that in reference to the Brittain project we should designate someone to talk to Slyk and Powers whether it be Dawson or someone from council and get something firm for what we can obtain those easements for. Elzer volunteered to set something up.

FINANCE: **Tyger** stated the EMT/Ambulance is still not receiving payment from the Medicare billing program and that Thompson and Chief Todd are still working on it.

VISITORS: Dan Scott, Venus Wittenauer, James Hill, Dot Herbert, David Biggins, Tiffany Inman, Barb Lynch, Chuck McGuire, Chuck Treece, Larry & Terri Ward, Tim Weigle, Jon Rettig Jr., John Simon, Josh Foster, Patti Bosley, Betty Reeves, Vicky Terwilliger, Ben Terwilliger, Dave & Shelley Vargo, Tiffany Vargo, Shirley Wilson, Brent Wilson, Rick & Karen Gorby, Terri Rauch, Laura Beight, John Jurjavcic, Brock Jurjavcic, Denny Griffith, Rich Bolon, Park Grim, John & Bonnie Davis, Wendy Pander, Marina Davis, Dan Figley, Abel Figley, Emery Coon, Jerry Coblentz, Katie Schwendeman, Bob & Tami Harris, Dianna Elzer, Dan Knight, Tammy Harris, Kerri Stewart.

LEGISLATION: **HULL** introduced **ord. 6-2012** for 3rd reading by title only seconded by Rauch. Motion carried. ...**An ordinance providing for the financial allocation of proceeds as to revenues received as a result of oil and gas lease/royalties.** Elzer questioned going thru with the 3rd reading because we don't know how much money we are talking about. Smith stated there would not be an exact dollar figure until there is a lease agreement to enter into. Mayor Zuch asked Elzer if he would like to table the ordinance and he said yes. Elzer made a motion to **table ord. 6-2012.** Seconded by Tyger. Distribution of proceeds was questioned and Thompson stated that from a finance perspective the park revenues would have to stay with the park and cemetery would have to stay with the cemetery. Figley questioned why table now on the 3rd reading and Elzer stated he wants to know a dollar figure before making a decision. Figley stated we have gone 4 mos without knowing a price and says at one time he knew of someone willing to offer \$5800 per acre and is worried the longer we wait the less money we will get. Figley asked when council would get to know exact figures and Smith stated whenever they want but she had been directed by council to keep the numbers confidential. Figley said he thinks some people already know the figures and Smith stated she had not disclosed them to anyone. Smith stated that if there are any reservations it should be tabled and it will not slow down the process if its not approved tonight. You can do it simultaneously with entering into the lease. Elzer asked if it could still be done in one reading and Mayor Zuch stated it would have to be an emergency at that point. Vote was taken to table **ord. 6-2012.** Roll call vote Elzer, YES; Figley, NO; Hull, YES; Rauch, YES; Tyger, NO; Wisser, YES. 4 YES votes, 2 NO votes. Motion carried. **Ord. 6-2012** is tabled. Hull introduced **resolution no. 7-2012-r** and makes a motion to be read by title only. Seconded by Elzer. Motion carried....**a resolution of the council of the village of east Palestine approving the plan of action to construct a new reservoir, adopt a progress schedule as to monitoring and transition of the existing reservoir, and to comply with alleged deficiencies set forth by the Ohio environmental protection agency (Ohio epa) as relates to the wheathill reservoir site operations, and declaring an emergency.** Elzer asked if this is just approving the schedule and plan, Smith stated yes it is. Dirorio from MS said that he would prefer legislation for the project. This is authorizing them to construct a new reservoir, have the existing reservoir in operation for as long as possible during construction, submits requirements for the village. It is the commitment from the village to the EPA and replacement of reservoir. This due by April 29 and needs to be an emergency. Hull made a motion to suspend the rules and declare this an emergency resolution. Seconded by Rauch. 6-YES to pass. Motion carried. Hull called for a vote on **resolution no.7-2012-r.** Elzer-YES, Figley-YES, Hull-YES, Rauch-YES, Tyger-YES, Wisser-YES. 6-YES to pass.

ADJOURN: Hull made a motion to adjourn, seconded by Rauch. Motion carried. Meeting adjourned

ATTEST_____ **SIGNED**_____
MISTI J. MARTIN- CLERK **MAYOR MARGO ZUCH**